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Chairman
Linda T. Sánchez, California
Ranking Member

Michael T. McCaul, Texas
K. Michael Conaway, Texas
Charles W. Dent, Pennsylvania
Gregg Harper, Mississippi

John A. Yarmuth, Kentucky
Donna F. Edwards, Maryland
Pedro R. Pierluisi, Puerto Rico
Joe Courtney, Connecticut



ONE HUNDRED TWELFTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

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February 17, 2012

The Honorable John Boehner
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Pursuant to House Rule XI, clause 3(b)(5) and Committee Rule 9(e), and with the unanimous approval of the Committee on Ethics (Committee), I am writing to request the appointment of six substitute Members, necessitated by voluntary recusals, to serve for any Committee proceeding related to the Matter of Representative Maxine Waters (the matter) currently before this Committee.

Timing of Recusal

Prior to the end of the 111th Congress, the bipartisan leadership of the Committee each recognized the need to hire outside counsel to complete this matter. On July 20, 2011, the Committee announced that it voted unanimously to hire Attorney Billy Martin as outside counsel to review, advise and assist the Committee in completing the matter.

A key phase of Mr. Martin's assistance is to review allegations that this Committee violated due process rights or rules attaching to Representative Waters. In addition, Mr. Martin was asked to address whether recusal of any Members of the Committee should be considered and when would be the most appropriate time for his recommendations regarding recusal.

Mr. Martin has informed the Committee that he has reviewed tens of thousands of pages of documents, and has interviewed current and former Committee Members as well as current and former Committee staff. Each current and former Committee Member and current employee, who was requested for interview, fully cooperated with Mr. Martin.

However, Mr. Martin has advised that one necessary witness has refused to appear voluntarily and, when subpoenaed to testify, communicated to the Committee that the witness would refuse to answer questions on the basis of the witness's Fifth Amendment privilege.

The witness's refusal to answer questions prevents the completion of the due process review. While Mr. Martin had advised that the most appropriate time to present his

recommendations regarding recusal would be upon the completion of his due process review, he has now counseled the Committee to advance that timing and consider the recusal recommendations prior to considering the witness's refusal to testify.

As the Committee must now determine its next steps in this matter, Mr. Martin has recommended that the leadership of the current Committee and four Members who served on the Committee in the 111th Congress consider recusal from further proceedings in this matter. After careful consideration, these six Committee Members have requested their voluntary recusal.

Reasons for Recusal

Mr. Speaker, the record should note that these recusal requests are not based on any indication of any wrongdoing or inappropriate partisanship by the Members. In fact, Mr. Martin has advised the Committee that, to date:

- 1) He has not discovered any evidence to indicate actual bias or partiality by any current Member or staff of the Committee;
- 2) He has not discovered any evidence that should cause a mandatory recusal of any current Member or staff of the Committee; and
- 3) There is no conflict which would require the disqualification or recusal of any current Member or staff of the Committee.

Instead, these recusal requests come from Members of the Committee who voluntarily cooperated with Mr. Martin's review, voluntarily appeared for interviews with Mr. Martin, and voluntarily produced a voluminous number of documents in their possession. The Members requested recusal because:

- 1) They believe that, out of an abundance of caution and to avoid even an appearance of unfairness, their voluntary recusal will eliminate the possibility of questions being raised as to the partiality or bias of Committee Members considering this matter;
- 2) They want to assure the public, the House, and Representative Waters that this investigation is continuing in a fair and unbiased manner; and
- 3) They want to move this matter forward in a manner that supports the greatest public confidence in the ultimate conclusions of the Committee.

Both the Committee and Mr. Martin recognize that recusal is an extremely rare occurrence and should not be sought without careful consideration by the Members. While the Members believe that they each can render an impartial and unbiased decision in any proceeding related to this matter, the Committee takes this extraordinary measure – in this unique circumstance – to further the best interests of the House and to permit this matter to be brought to a conclusion.

Voluntary Recusal of Six Members

Therefore, Members of the Committee who have requested recusal are: Representative Jo Bonner, Representative Linda T. Sánchez, Representative Michael T. McCaul, Representative K. Michael Conaway, Representative Charles W. Dent, and Representative Gregg Harper. The Committee has unanimously accepted and approved these requests.

Furthermore, outside counsel has discovered no evidence indicating bias or partiality on the part of former Members or requiring the exclusion of any former Members of the Committee from serving as substitute Members. However, out of an abundance of caution and for the same reasons as the current Members volunteering their recusal, Mr. Martin has recommended that no Member who served on the Committee in the 111th Congress should serve as a substitute Member in this matter. In addition, for the same reasons, no current Committee staff who had previously worked on the matter will be involved in further proceedings in the matter.

The Committee has taken these steps, pursuant to House Rule XI, clause 3(b)(5) and Committee Rule 9(e). Accordingly, I request that six substitute Members of the Committee be appointed. These substitute Members will serve the Committee only for the purpose of bringing the Matter of Representative Waters to a fair and just conclusion. The service of the substitute Members will end with the conclusion of the Matter of Representative Waters. I shall remain Chairman of the Committee, Representative Sánchez shall remain the Ranking Member, and all other recused Members will continue to serve on the Committee for all other purposes.

Sincerely,



Jo Bonner
Chairman

cc: The Honorable Nancy Pelosi, Minority Leader
The Honorable Linda T. Sánchez, Ranking Member
Members of the Committee on Ethics